## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

CLERK'S	OFFICE U.S. DIST COURT AT RUANIONE, VA FILED
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ANTONIO FITZGERALD,	)	DEPOTO
Plaintiff,	)	Civil Action No. 7:05CV00434
	)	
<b>v.</b>	)	FINAL ORDER ADOPTING REPORT
	)	AND RECOMMENDATION
	)	
DANVILLE CITY JAIL, et al.,	)	By: Samuel G. Wilson
Defendants.	)	United States District Judge

Antonio Fitzgerald brings this suit pursuant to 42 U.S.C. § 1983, claiming employees of the Danville City Jail used excessive force against him in violation of the Eighth Amendment and exhibited deliberate indifference to his serious medical needs. Defendants filed a motion to dismiss, and the court referred the matter to United States Magistrate Judge Michael F. Urbanski pursuant to 28 U.S.C. 636(b)(1)(B) for a report and recommendation. The Magistrate Judge filed a report and recommendation, finding that Fitzgerald had failed to state a claim for which the court may grant relief. Neither party filed timely objections.

The court has reviewed the Magistrate Judge's report and pertinent portions of the record, and it is hereby **ORDERED** and **ADJUDGED** that the Magistrate Judge's report be **ADOPTED** in its entirety, that the defendants motion to dismiss be **GRANTED**, and that Fitzgerald's suit be **DISMISSED** and **STRICKEN** from the active docket of the court.

The Clerk of the Court is directed to send certified copies of this order to the plaintiff and to counsel for the defendants.

ENTER: This 234 day of January, 2006.

UNITED STATES DISTRICT JUDGE